

**STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE**

OF DOE 5,

Plaintiff,

vs.

**KENMORE-TOWN OF TONAWANDA
UNION FREE SCHOOL DISTRICT,
1500 Colvin Blvd,
Buffalo, NY 14223,**

Defendant.

SUMMONS

Index No.

TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED AND REQUIRED to serve upon the plaintiffs' attorneys, at the address stated below, a written Answer to the attached Complaint.

If this Summons is served upon you within the State of New York by personal service you must respond within twenty (20) days after service, not counting the day of service. If this Summons is not personally delivered to you within the State of New York, you must respond within thirty (30) days after service is complete, as provided by law.

If you do not respond to the attached Complaint with the applicable time limitation stated above a Judgment will be entered against you, by default for the relief demanded in the Complaint, without further notice to you.

This action is brought in the County of Erie because it is the Plaintiff's County of residence.

DATED: Buffalo, New York
August 29, 2019



Christopher J. O'Brien, Esq.
O'Brien & Ford, P.C.
Attorneys for Plaintiff
4925 Main Street, Suite 222
Buffalo, New York 14226
TEL: (716) 907-7777

**STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE**

OF DOE 5,

Plaintiff,

vs.

COMPLAINT

Index No.

**KENMORE-TOWN OF TONAWANDA
UNION FREE SCHOOL DISTRICT,**

Defendant.

Plaintiff, OF DOE 5, by his attorneys, O'Brien & Ford, P.C., hereby complains of the Defendant and alleges:

1. At all times hereinafter referenced, Plaintiff was and is a resident of the County of Erie and State of New York.
2. Upon information and belief and at all times hereinafter referenced, Defendant Kenmore-Town of Tonawanda Union Free School District was and is a school district located in the County of Erie and State of New York.
3. At all times hereinafter referenced, Herbert Hoover Elementary School was and is an elementary school owned, controlled, supervised, operated and managed by Defendant Kenmore-Town of Tonawanda Union Free School District and was located at 199 Thorncliff Road, in the Town of Tonawanda, County of Erie and State of New York.
4. At all times hereinafter referenced, Arthur Werner was a fifth-grade teacher at Hoover Elementary and was an employee of the Defendant school district.
5. This case is brought under the Child Victims Act and, as such, the filing of a Notice of Claim is not required.

6. At all times referenced herein, the Plaintiff was a student under eighteen (18) years of age and was legally and lawfully upon the premises of Hoover Elementary School.

7. During the time that the Plaintiff was a fifth-grade student at Hoover Elementary in 1973-1974, he was regularly and repeatedly sexually assaulted, abused, groomed and/or groped by Kenmore-Town of Tonawanda Union Free School District employee and fifth-grade teacher Arthur Werner.

8. Further, OF DOE 5 was forced to watch Arthur Werner regularly and repeatedly sexually assault other boys in this classroom at Hoover Elementary.

9. As a result of the foregoing, OF DOE 5 sustained pain, suffering and emotional, mental and psychological injuries inflicted upon him through no fault of his own.

10. Upon information and belief, the aforementioned injuries were sustained due to the negligence, carelessness, lack of supervision and lack of appropriate policies of the Kenmore-Town of Tonawanda Union Free School District.

11. As a result of the negligence of the Defendant, the Plaintiff has sustained damages in an amount which exceeds the jurisdictional limits of all lower Courts.

WHEREFORE, the Plaintiff seeks judgment against the Defendant in an amount which exceeds the jurisdictional limits of all Courts of lower jurisdiction.

DATED: Buffalo, New York
August 29, 2019


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